decisions squarely support such an evasion, holding it to be no alteration of the note and no variation in the surety's contract.[7] The principal case, however, very properly points out that such a transaction is readily distinguishable from one where the original amount is actually loaned and a portion of it immediately, but voluntarily, repaid. In that case there would be an actual giving of credit, but here no credit for the entire amount was ever extended. The West Virginia and Florida cases are apparently unsupportable, and the holding of the principal case on this point, and of an Indiana decision[8] which it approves and follows, are decidedly to be preferred.

W. W. F. Jr.

Torts: Civil Conspiracy: Interference with Business.—Bowman v Wohlke[1] was a case where the plaintiff, after alleging a conspiracy, entered into by the defendants for the purpose of destroying their business, proceeded to show the accomplishment of the purpose by various acts,—acts which taken by themselves would amount to slander, trespass, malicious prosecution, and the like. Plaintiffs contended that the facts showed but one cause of action, and that therefore, an amendment to the complaint adding a charge of malicious prosecution, which was barred by the statute of limitations, if it constituted a separate cause of action, was properly allowed as an amendment to the cause of action stated in the complaint. The Supreme Court held that the matter introduced by the amendment was an independent cause of action, and, therefore, barred by the statute.

It is possible that the undue emphasis placed by the plaintiffs upon the phase of the case dealing with the element of conspiracy may have led the court to overlook the vital point of the case,—namely, legal damage. It is true, as the court ably shows, that at common law, the element of conspiracy was never so important in civil actions as in crimes.[2] In fact, excepting for the ancient and narrow writ "de conspiratoribus," which since developed into our action on the case for malicious prosecution, "a simple conspiracy, however atrocious, unless it resulted in actual damage, never was the subject of a civil action," to quote the language of the court in the principal case. As the matter is often stated, the damage and not the conspiracy is the gist of the action.

But does not this manner of expression lead to the result that where there has been actual damage, a cause of action does arise, and arises, too, at the time when the damage accrues, not at the time when the acts which cause the damage occurred? The right to enjoy the fruits and advantages of one's own enterprise, industry,

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[7] Merchants' and Mechanics' Bank v. Evans, (1876) 9 W. Va. 373; Solicitors' Co. v. Savage, (1897) 37 Fla. 703, 23 So. 413.

[8] Johnston v. May, (1881) 76 Ind. 293.

[1] (Aug. 28, 1913), 46 Cal. Dec. 228.

[2] Saville v. Roberts, (1691) 1 Ld. Raym. 374, 91 Eng. Repr. 374.

skill and credit, free from wanton interference, disturbance or annoyance, is recognized in many modern cases.[3] The right to pursue one's trade or calling unmolested, has been said to be as much a right as the right to enjoy life, liberty or property.[4] Every interference with this right, not justified by fair competition or by some other legal excuse, ought to be the subject of an action at law.[5] The law of torts has evolved from the protection of the family status, including the obsolete relation of master and apprentice, into the view that a person's contractual relations must not be interfered with, and, again, even beyond this view, into the recognition of the fact that one's business, his expectation of getting contracts, must also be protected.[6] It is, therefore, commonly held in most jurisdictions, that a boycott is illegal, and that the causing of damage thereby is an actionable wrong.[7] The intimidation, coercion, obstruction and molestation of the servants or customers of a rival have been frequently held to be the subjects of actions at law, and a series of such acts to constitute but a single cause of action, though the acts, when viewed from a different standpoint, may also be found to be independent torts.[8]

To circulate slanderous reports about a person, to cause him to be prosecuted upon groundless charges, to maintain nuisances near his store, to hold him up to public contempt and ridicule,—it would seem that such a series of acts performed either by an individual or by a combination of persons, ought to constitute a wrong, and a single wrong, an injury to plaintiff's right to make a living. The fact of the presence or absence of a conspiracy seems of little importance in comparison with the fact that grave injury of a definite character has happened to one by another's unjustifiable conduct.

It must be said that the California decisions do not justify all that has been said above concerning the extension of the territory of actionable wrongs. The doctrine of Lumley v. Gye[9] to the effect that an action lies for wrongful interference with contractual obligations has, in California, probably alone among the American states, been refused recognition. Everywhere else in the English speaking world where the subject has been considered by courts, it is believed that the doctrine of that case has been approved.

M. C. B.

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[3] Cooley, Torts, 3rd ed., 598.

[4] Hundley v. Louisville &c. Ry. Co., (1898) 105 Ky. 162, 48 S. W. 429.

[5] Walker v. Cronin, (1871) 107 Mass. 555.

[6] 1 Cal. Law Rev. 5; Allen v. Flood, 1898 A. C. 1; Quinn v. Leathem, 1901 A. C. 495; Doremus v. Hennessy, (1898) 54 N. E. 524, (Ill.).

[7] Loewe v. Cal. State Federation of Labor, (1905) 139 Fed. 71.

[8] Gaillard v. Cantini, (1896) 76 Fed. 699; Schultz v. Frankfort Marine Ins. Co., (1913) 139 N. W. 386 (Wis.); Jersey City Printing Co. v. Cassidy, (1909) 63 N. J. E. 759, 53 Atl. 230; Brown v. American Mortgage Co., (1904) 27 Tex. 599, 80 S. W. 985.

[9] Lumley v. Gye, (1853) 2 El. & Bl. 216; Boyson v. Thorn, (1893) 98 Cal. 578, 33 Pac. 492.